Appendix A

OVERVIEW OF CAL/EPA BOARDS, DEPARTMENTS, AND OFFICE

Mission Statements of the Boards, Departments and Office

Air Resources Board

The mission of the California Air Resources Board is to promote and protect public health, welfare and ecological resources through the effective and efficient reduction of air pollutants while recognizing and considering the effects on the economy of the state.

Environmental Health Hazard Assessment

The mission of the Office of Environmental Health Hazard Assessment is to provide information to environmental regulators and the public about the adverse health effects that result from environmental exposures to noninfectious agents.

Integrated Waste Management Board

The mission of the California Integrated Waste Management Board is to protect the public health and safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. It promotes the following waste management practices: (1) source reduction, (2) recycling and composting, and (3) environmentally safe transformation and land disposal.

Pesticide Regulation

The mission of the Department of Pesticide Regulation is to regulate all aspects of pesticide sales and use, recognizing the need to control pests, while protecting public health and the environment and fostering reduced-risk pest management strategies. The Department's oversight includes product evaluation and registration, local use enforcement, environmental monitoring, and fresh produce residue testing.

Toxic Substance Control

The mission of Department of Toxic Substances Control is to protect public health and the environment from harmful exposure to hazardous substances, without unnecessarily impacting sustainable growth and development.

Water Resources Control Board

The mission of the State Water Resources Control Board is to ensure the highest reasonable quality for waters of the State, while allocating those waters to achieve the optimum balance of beneficial uses.

AIR RESOURCES BOARD

Mission

The mission of the California Air Resources Board (ARB) is to promote and protect public health, welfare and ecological resources through the effective and efficient reduction of air pollutants while recognizing and considering the effects on the economy of the state.

Governance

The Air Resources Board consists of 11 members appointed by the Governor with the consent of the Senate. All members serve at the pleasure of the Governor. Board members serve part-time, except the Chairperson, who serves full-time.

Members must meet qualifications specified in the law. Five members must be chosen from the boards of local air quality management districts: one each from the San Diego Air Pollution Control District, San Francisco Bay Area Air Quality Management District, San Joaquin Valley Unified Air Pollution Control District, South Coast Air Quality Management District (greater Los Angeles region), and one from any other district. Three other members fill specific categories. One must have expertise in automotive engineering or a closely related field. One must have expertise in science, agriculture, or law. One must be a physician and surgeon, or health effects expert. One of the three remaining members must have expertise in air pollution control, or must meet the qualifications of one of the three categories mentioned above. The remaining two members are public members. The Governor appoints a full-time Chairperson to the Board from among its members.

Programs

The programs of the Air Resources Board include:

- Setting and enforcing emission standards for motor vehicles, fuels, and consumer products
- Setting health-based air quality standards
- Conducting research
- Monitoring air quality
- Identifying and setting control measures for toxic air contaminants
- Providing compliance assistance for businesses
- Producing education and outreach programs and materials
- Overseeing and assisting local air quality districts which regulate most non-vehicular sources of air pollution

ARB has approximately 983 budget positions.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Mission

The mission of the Office of Environmental Health Hazard Assessment (OEHHA) is to provide information to environmental regulators and the public about the adverse health effects that result from environmental exposures to noninfectious agents.

Governance

The Office is under the control of an executive officer known as the Director of Environmental Health Hazard Assessment, who is appointed by the Governor, subject to confirmation by the Senate, and holds office at the pleasure of the Governor. The director is required to have broad-based scientific expertise as evidenced by a doctoral degree and work experience in a biological or medical science

Programs

The programs administered by OEHHA currently include:

- **Proposition 65 Implementation Program** Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986, was enacted as a ballot initiative in November, 1986. The Proposition was intended by its authors to protect California citizens and the State's drinking water sources from chemicals known to cause cancer, birth defects or other reproductive harm, and to inform citizens about exposures to such chemicals. The Office of Environmental Health Hazard Assessment is the lead agency for Proposition 65 implementation.

- **Hazardous Waste Toxicology** The Hazardous Waste Toxicology program performs a variety of functions dealing with potential health threats from exposures to hazardous and solid wastes. The Section assists the Department of Toxic Substances Control, Department of Health Services, and Integrated Waste Management Board in evaluating hazardous waste sites where people are exposed or have a high potential of exposure to hazardous waste, and provides peer review of risk assessment documents for those sites. The program also assists local agencies and individual citizens that have concerns about health risks from exposures to hazardous materials.

- **Reproductive And Cancer Hazard Assessment** The Reproductive and Cancer Hazard Assessment program provides scientific support for all risk assessment programs within OEHHA, with specific responsibilities for the implementation of Proposition 65. The program provides technical support for listing carcinogens and reproductive toxicants under Proposition 65; develops guidelines for conducting risk assessments; and develops an annual list of chemicals in need of future testing. In addition, it evaluates the hazards from consumer use of drugs, cosmetics, and other consumer products; prepares and develops guidelines for ecotoxicological risk assessment; and assists other Cal/EPA departments.

- **Air Toxicology And Epidemiology** The Air Toxicology and Epidemiology Section program is responsible for carrying out risk assessments of chemical contamination in various media, such as air, water and food. Information developed by the section is provided to air quality management

districts, local health departments, the Air Resources Board (ARB), the U.S. Environmental Protection Agency, other governmental agencies, regulated industries and the public.

- **Pesticide And Environmental Toxicology** The Pesticide and Environmental Toxicology program carries out risk assessment and hazard evaluation activities related to pesticide and other chemical contaminants in food and consumer products; supports a pesticide illness reporting system, epidemiological and other assistance to local health officers in the event of an outbreak of pesticide poisoning, joint and mutual responsibility with the Department of Pesticide Regulation to develop regulations to protect workers exposed to agriculture pesticides, and a program for reducing groundwater contamination from pesticides; and, performs major risk assessment and hazard evaluation activities relating to chemical contaminants in drinking water.

- **Hazardous Materials Data Management** The Hazardous Material Data Management program creates, develops, and maintains various environmental databases for Cal/EPA, including the Toxic Release Inventory and the Cal/EPA Facility Inventory.

- **Registered Environmental Assessor** The Registered Environmental Assessor program registers environmental compliance experts on a voluntary basis and connects small-and medium-sized business with assessors who have the particular kinds of expertise to assist them with complying or maintaining compliance with environmental regulations.

- **Hazardous Substance Cleanup Arbitration Panel** The purpose of the Hazard Substance Cleanup Arbitration Panel is to render final, binding allocations of the costs of cleanup at sites named on the California State Superfund list.

OEHHA has approximately 122 budgeted positions.

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Mission

The mission of the California Integrated Waste Management Board (CIWMB) is to protect the public health and safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. It promotes the following waste management practices: (1) source reduction, (2) recycling and composting, and (3) environmentally safe transformation and land disposal.

Governance

The CIMWB Board consists of six full-time members.

Four Board members are appointed by the governor, subject to confirmation by the Senate. Two of these board members represent the public, one represents the solid waste industry, and one represents the environmental industry.

One Board member is appointed by the Speaker of the Assembly, and one is appointed by the Senate Rules Committee. These two board members are not subject to confirmation by the Senate.

The Board Chairman is elected by the Board members. The Board members that represent the solid waste industry and the environmental industry are not eligible to be Board Chairman.

The Board appoints an Executive Director, who plans, organizes, directs, and administers all activities and functions of the CIWMB through Assistant and Deputy Directors.

Programs

The programs of the CIWMB are organized into the following divisions:

- Diversion Planning and Local Assistance Division
  - Waste Analysis Branch
  - Public Education and Programs Implementation Branch
  - Office of Local Assistance

- Permitting and Enforcement (P&E) Division
  - Program Evaluation and Environmental Oversight Section
  - Facilities Operations Branch
  - LEA Support Services Branch
  - Permitting and Inspections Branch
  - Remediation, Closure, and Technical Services Branch

- Waste Prevention and Market Development Division
  - Recycling Business Assistance Branch
  - Secondary Materials and Technology Branch
  - Organics and Resource Efficiency Branch

- Special Waste Division
  - Used Oil Recycling Analysis Section
  - Grants and Household Waste Section
  - Used Oil Certification Section
  - Tire Remediation & Engineering Technical Services

CIWMB has approximately 423 budgeted positions.

DEPARTMENT OF PESTICIDE REGULATION

Mission

The mission of the Department of Pesticide Regulation(DPR) is to regulate all aspects of pesticide sales and use, recognizing the need to control pests, while protecting public health and the environment and fostering reduced-risk pest management strategies. The Department's oversight includes product evaluation and registration, local use enforcement, environmental monitoring, and fresh produce residue testing.

Governance

The Department is under the control of an executive officer known as the Director of Pesticide Regulation, who is appointed by and holds office at the pleasure of the Governor.

Programs

The Department's program responsibilities include:

- Providing for the proper, safe and efficient use of pesticides essential for the production of food and fiber and for protection of public health and safety

- Protecting the environment from harmful pesticides by prohibiting, regulating, or ensuring proper stewardship of those pesticides

- Assuring agricultural and pest control workers of safe working conditions where pesticides are present

- Permitting agricultural pest control by competent and responsible licensees/permittees under strict control of the Director and County Agricultural Commissioners.

- Assuring consumers and users that pesticides are properly labeled and are appropriate for the use designated by the label

- Ensuring that state or local government dissemination of information of any registered pesticide product is consistent with the uses for which the product is registered

- Encouraging the development of reduced risk pest management systems

DPR has approximately 387 budgeted positions.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Mission

The mission of Department of Toxic Substances Control (DTSC) is to protect public health and the environment from harmful exposure to hazardous substances, without unnecessarily impacting sustainable growth and development.

Governance

The Department is under the control of a director who is appointed by and holds office at the pleasure of the Governor

Programs

DTSC is comprised of three major program areas and six support programs, as follows:

- Hazardous Waste Management Program Responsible for regulating hazardous waste generators, transporters, treatment, storage and disposal facilities. The program also reviews and makes decisions on operating and post-closure permits, and ensures compliance with

regulatory requirements, corrective action work and implementation of the new Unified Program.

- Site Mitigation Program Identifies and cleans up sites that are contaminated with hazardous wastes, and provides emergency response support to incidents involving spills or other uncontrolled releases of hazardous substances. The State's environmental work at 150 operational and closing military bases is also coordinated by DTSC.

- Science, Pollution Prevention and Technology Programs Consolidates technically and scientifically oriented activities, and supports environmental improvements through pollution prevention and new technologies.

- Support Programs DTSC support programs are Administrative Services, Office of Legal Counsel and Criminal Investigations, External Affairs, Office of the Assistant Director, Affirmative Action, and Training and Total Quality Management.

DTSC conducts many of its activities out of five regional offices and two laboratories. Those activities include the Site Mitigation, Hazardous Waste Management, and Science, Pollution Prevention and Technology.

DTSC has approximately 1049 budgeted positions.

STATE WATER RESOURCES CONTROL BOARD

Mission

The mission of the State Water Resources Control Board (SWRCB) is to ensure the highest reasonable quality for waters of the State, while allocating those waters to achieve the optimum balance of beneficial uses.

Governance

The SWRCB consists of five full-time salaried members, each filling a different specialty position. Currently, there is one vacancy. Board members are appointed to four-year staggered terms by the Governor and confirmed by the Senate.

There are nine Regional Water Quality Control Boards (RWQCB). The mission of the RWQCBs is to develop and enforce water quality objectives and implementation plans which will best protect the beneficial uses of the State's waters, recognizing local differences in climate, topography, geology and hydrology.

Each RWQCB has nine part-time members appointed by the Governor and confirmed by the Senate. RWQCBs develop “basin plans” for their hydrologic areas, issue waste discharge permits, take enforcement action against violators, and monitor water quality.

Programs

The State Board is generally responsible for overall policy-setting and consideration of petitions contesting Regional Board actions. The State Board is responsible for allocation of surface water rights.

Today, the State Board is organized into four divisions encompassing three program areas and an administration function that supports not only the State Board, but also the nine Regional Boards. The three program divisions are:

> The *Division of Clean Water Programs* is responsible for the implementation of the State Board's financial assistance programs for the construction of municipal sewage facilities, water recycling facilities, and the remediation of effects of releases from underground storage tanks. The Division also provides program implementation assistance in the regulation of waste discharges to land, including: underground storage tanks, toxic pits, landfills and unauthorized waste discharges which may effect the State's ground waters. In addition, the Division certifies and regulates wastewater treatment plant operators and licenses tank testers.
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> The *Division of Water Quality* is responsible for providing the statewide perspective on a wide range of water quality planning and regulatory functions such as: monitoring for compliance with permit requirements, inspections of treatment facilities and pretreatment of industrial waste water discharged to municipal systems. Other major functions of the Division include developing criteria and water quality standards for inland surface waters, bays and estuaries, and the ocean.
>
> The *Division of Water Rights* processes water right permit applications, assists in protest resolution, holds hearings as necessary and issues permits. Once a project is completed and full beneficial use of the water has been made, the Division issues a license as final confirmation of the water right. The Division also processes changes to water right projects including transfers, investigates complaints and takes enforcement action against illegal diverters.

The nine Regional Boards are each semi-autonomous and comprised of nine part-time Board members appointed by the Governor. Regional boundaries are based on watersheds. Each Regional Board makes water quality decisions for its region. These decisions include setting standards, issuing waste discharge requirements and taking enforcement actions. Most Regional Board decisions can be appealed to the State Board.

SWRCB has approximately 1359 budgeted positions.

Appendix B

Funding Sources and Statutory Limitations

Note: The funding mechanisms in place for OEHHA, while problematic, are straight-forward and easily understood. A detailed breakdown of the funding for OEHHA has not been developed.

AIR RESOURCES BOARD

The Air Resources Board (ARB) level of expenditures has increased from $93.1 million in 1991-92 to an estimated $139.3 million in 1999-00, an increase of $46.2 million or 50 percent. This in includes $19 million of one-time funds for the Carl Moyer Diesel Grant program. A significant policy decision effective in the 1998-99 fiscal year resulted in General Fund resources being applied to predominately stationary source programs in lieu of Motor Vehicle Account funding. For 1999-00 the General Fund is supporting a $29.3 million level of expenditure. All funds available to the ARB require an appropriation by the Legislature.

For the proposed 1999-00 budget funding sources are as follows:

Motor Vehicle Account (MVA), State Transportation Fund

$59.1 million is proposed from the MVA, which represents 42.4 percent of the ARB budget. This figure includes $7.5 million for local air pollution control districts. The ARB uses the MVA funding source for mobile source programs and shares a 50/50 funding ratio with the General Fund when a program is related to mobile sources *and* stationary sources.

General Fund

$29.3 million from the General Fund (22.1 percent of ARB's total budget) is available primarily for stationary source programs (see comment above re 50/50 sharing with the MVA).

Air Pollution Control Fund

$23.8 million (17.1 percent of ARB's total budget) is provided from the APCF. It should be noted that $14 million of this expenditure level is provided from one time settlement funds related to a federal lawsuit against heavy duty diesel manufacturers. These funds will be used on a one-time basis to partially fund the Diesel Grant Program. A more normal level of expenditure from this fund is in the $9 to $10 million range. Funding sources for the APCF are fees and fines including:

(a) Local districts collect and remit to the ARB a permit fee imposed on nonvehicular sources that are authorized by the local district to emit 500 tons or more per year of any nonattainment pollutant. The current fee as authorized by H & S Code section 39612 is $24.15 per ton and is estimated to provide $3 million in 1999-00. Expenditure of these funds is limited to programs related to nonvehicular sources, in accordance with the California Clean Air Act.

(b) H & S Code section 43019 calls for vehicle manufacturers to pay a fee (currently $3.27) based on the number of vehicles or engines manufactured for sale in California. $5.9 million is estimated to be available from this source in 1999-00. A limitation of $4.5 million per year was established in 1989-90 to be increased each year by an amount not to exceed the California Consumer Price Index. The expenditure of these funds is limited to programs related to mobile sources, in accordance with the California Clean Air Act.

(c) H & S Code section 43203.5 requires a certification program for vehicles that were not intended for sale in California, are less than two years old and that were not certified by the ARB. Fees are limited to the cost of this program, which is estimated at $27,000 in 1999-00.

(d) H & S Code section 41962 provides that the ARB shall establish testing procedures for vapor recovery systems on cargo tank vehicles used to transport gasoline. A certification fee is limited to the amount required to run the program, which is estimated to be $64,000 in 1999-00.

(e) Fines are levied against air pollution violators and, upon appropriation, are used to purchase scientific equipment and other one time costs. Approximately $800,000 will be expended in 1999-00.

Vehicle Inspection and Repair Fund

This fund supports the Smog Check Program including heavy diesel smoke inspection programs. In accordance with H & S Code section 44060 vehicle owners must pay a fee for a Smog Check Certificate which supports these programs. These fees are limited to the amount necessary to run these specific programs. $9.5 million is estimated for the 1999-00 budget.
This fund also includes the High Polluter Repair or Removal Account (H & S Code section 44019) to address the issue of high polluting vehicles by providing funds to assist in their repair or removal. Approximately $200,000 will be expended to complete the program evaluation this year.

Air Toxics Inventory and Assessment Account

H & S Code section 44300 establishes the Air Toxics "Hot Spots" Information and Assessment Program to assess and monitor the release of specific toxic substances into the air. Section 44380 calls for fees to be established to cover the local air pollution control districts' cost of administration and the cost of the ARB and the Office of Health Hazard Assessment (OEHHA) cost to implement the program. The ARB and OEHHA will expend $1.5 million in 1999-00.

Federal Trust Funds

The U.S. EPA provides grant funding under the Federal Clean Air Act to assist in implementing programs (e.g. compliance training and emission inventory) to attain federal air quality standards. In 1999-00 it is estimated that $10.8 million will be made available through this grant process.

Reimbursements

It is estimated that $5.1 million will be received from other state agencies and the regulated community including testing new vehicles to see that they meet emission standards (H & S Code section 43203), industrial compliance testing (H & S Code section 41512), certifying systems designed for control of gasoline vapor emissions during gasoline marketing operations (H & S Code section 41954), certifying abrasive blasting materials to see that they comply with approved performance standards (H & S Code section 41900), equipment precertification (H & S Code section 39620) and portable engine registration (H & S Code section 41752). The ARB is limited by statute to recover only the reasonable cost of performance.

INTEGRATED WASTE MANAGEMENT BOARD

California Used Oil Recycling Fund

Public Resources Code section 48653 establishes the California Used Oil Recycling Fund. Section 48650 requires every oil manufacturer to pay to the IWMB sixteen cents per gallon of lubricating oil sold in the State or imported into the State.

These funds are continuously appropriated solely for the following activities:

(a) Recycling incentive payments to foster the transfer of used oil to recycling facilities.
(b) Administration by the IWMB and annual inspections of used oil-recycling facilities.
(c) Block grants to cities and counties for the implementation of local used oil collection programs. These grants are allocated to cities and counties based on population. This program is established at $10 million annually or half the amount in the fund (whichever is greater) after the above recycling, administrative, and inspection costs and a $1 million reserve for contingencies has been accounted for.
(d) The balance of the fund is restricted to the following: (1) not more than $200,000 for the destruction of oil contaminated by hazardous substances, (2) $250,000 for the Department of Toxic Substances Control enforcement, (3) and then percentages of the remaining funds for grants to local government for additional used oil collection (at least 40 percent), an information and education program (at least 20 percent), non profit grants (at least 10 percent) and research, testing and demonstration grants (at least 10 percent but less than 15 percent).

In 1999-00 it is estimated that $22.1 million will be collected and $25.6 million (including a $333,000 transfer) expended from this funding source.

California Tire Recycling Management Fund

Public Resources Code section 42885 provides that every person who purchases a new tire from a retail seller of tires shall pay 25 cents per tire to the seller. After the seller deducts 10 percent for costs the remainder is remitted to the State for deposit into the California Tire Recycling Management Fund. The fee is collected by the Board of Equalization. This law will terminate on January 1, 2001 unless extended by legislation.

Use of the funds is limited by Public Resources Code Section 42889 to:

(a) IWMB administration.
(b) Used tire-recycling programs.
(c) Development and enforcement of regulations relating to the storage waste tires
(d) Cost of clean up, abatement or other remedial action related to the disposal of used whole tires.
(e) Studies and research directed at promoting alternatives to landfill disposal of whole tires.
(f) A Statewide shredding program at landfills and solid waste transfer stations.
(g) Grants (up to a total of $100,000 annually) to support a purchase preference for materials manufactured from recycled tires.
(h) Waste hauler program.
(i) The Farm and Ranch Solid Waste Clean up and Abatement Grant Program. (See section below)

Expenditures from this fund are totally controlled by legislation. In 1999-00 it is estimated that $5.8 million will be collected and $10.9 million (including a $333,000 transfer) expended from this fund. A one time additional appropriation of approximately $5 million is expended in these figures.

Integrated Waste Management Account

Public Resources Code section 48000 provides that each disposal facility shall pay a fee of $1.34 per ton (but can be raised to $1.40 per ton) of solid waste disposed of at that facility. Section 48001 establishes the Integrated Waste Management Account (IWMA) in the Integrated Waste Management Fund. All funds collected pursuant to this section are deposited into the IWMA. Funds are subject to appropriation by the Legislature and are specifically directed to:

(a) Administration (up to 0.5 percent).
(b) State and regional Water Resources Control Boards for the regulation of solid waste disposal facilities (estimated at $5.9 million in 1999-00).
(c) Permitting and inspection of solid waste facilities.
(d) Cleaning up abandoned solid waste sites.
(e) Providing technical assistance to local jurisdictions preparing integrated waste management plans.
(f) Review and approval of integrated waste management plans.
(g) Research and investigations of new or improved solid waste handling, disposal or recycling methods.
(h) Public awareness and education.
(i) Market development and business development programs to promote recycling.
(j) A statewide integrated database describing California's waste management infrastructure.

In 1999-00, it is estimated that $49.1 million will be collected and $58.9 million (including transfers) expended from this source.

Recycling Market Development Revolving Loan Subaccount

Public Resources Code section 42010 establishes this subaccount in the Integrated Waste Management Account. Up to $5 million per year can be transferred from the IWMA to this account for loans to local jurisdictions and private business within a locally designated "recycling market development zone" for the purpose of developing post consumer waste material markets. Application fees, interest and principal from loan payments are retained for use in the subaccount.

Total revenue to this account is estimated at $7 million (a $5 million transfer and $2 million in interest income) and expenditures of $15.1 million in 1999-00.

Farm and Ranch Solid Waste Cleanup and Abatement Account

Public Resources Code Section 48100 established this account in the General fund in 1997. The funds are made available for grants to cities and counties for the purpose of cleaning up and abating the effects of illegally disposed solid waste on farm and ranch property. The total amount transferred to this account can not exceed $1 million. Funds can be appropriated to this account from the IWMA, the California Tire Recycling Management Fund or the California Used Oil recycling Fund. In 1999-00 transfers of $333,000 are proposed from each of these accounts. One million will be expended from this account in 1999-00.

Solid Waste Disposal Site Cleanup Trust Fund

Public Resources Code Section 48027 establishes the Solid Waste Disposal Site Cleanup Trust Fund and allows up to $5 million per year to be appropriated from the IWMA. A maximum of $5 million may be expended in any year with the Fund limited to a maximum balance of $30 million. These funds are to be used to clean up sites "where the responsible party either can't be identified or is unable or unwilling to pay for timely remediations and where cleanup is needed to protect public health and safety or the environment." In 1999-00 it is proposed to transfer $5 million from the IWMA and to expend the maximum allowed ($5 million). There will be a balance in this fund of $6.1 million held for committed encumbrances and a reserve of $4.9 million on June 30,2000.

Federal funds

$2.1 million in federal funds are available for a Jobs Through Recycling Program,
and spending authority for Lake Tahoe Basin Pollution Prevention and Education Program and Sustainable Development Challenge

DEPARTMENT OF PESTICIDE REGULATION

Total expenditures for DPR have grown from $42 million (including $9 million for counties) in 1991-92 to an estimated $53 million (including $13 million for counties) in 1999-2000. The department has eight funding sources as detailed in exhibit below with all but 10 percent derived from the Pesticide Regulation Fund (64%) and the General Fund (26%). This ratio has remained relatively constant for the entire history of the DPR.

General Fund

In 1999-00 a total of $13.8 million is provided from the General Fund for state operations and local assistance.

Pesticide Regulation Fund

(1) Mil Tax on Pesticide Sales

F&A Code section 12841 establishes a mil tax on pesticide sales that is currently 17.5 mils or 0.0175 cents for every dollar of registered pesticides sold for use in California. This rate is in effect until January 1, 2003. The rate drops to 9 mils unless statutory authority is granted to enable a rate that will provide adequate resources to DPR. The review and establishment of a rate sufficient to operate DPR programs has been reviewed every few years. The DPR, Legislature and other stakeholders in the program have been able to agree on funding within a range sufficient for the DPR to complete its responsibilities.

For 1999-00 the 17.5 mil tax is estimated to produce approximately $29 million in revenue. DPR is required by statute to provide funds equivalent to 6 mils or $10.4 million in 1999-00 to the counties for support of county programs.

Funds collected from the mil tax are deposited in the Pesticide Regulation Fund (PDF) and can be broadly used for "expenditure, upon appropriation, to support the department's operations."

(2) Permits, Licenses and examinations

F&A Code sections as noted below provide a total for 1999-00 estimated at $1,053,000. These funds are deposited in the PRF and are available for broad DPR use as noted on the mil tax.

(3) Certificate of Registration for Pesticides

F&A Code section 12812 requires every manufacturer, importer or dealer in any pesticide to obtain a certificate of registration from the DPR before the pesticide is offered for sale. The annual fee is $200. These funds, estimated at $2.3 million for 1999-00, are deposited into the PRF and are available for DPR the same as funds in items 1 and 2 above.

(4) Civil Penalties

Civil penalties, which are authorized in several F&A Code sections, are estimated at approximately $500,000 for 1999-00. These funds are also deposited into the PRF and are available to the DPR the same as the funds in the items above.

Environmental License Plate Funds

The 1999-00 Budget Act appropriates $470,000 to DPR from the Environmental License Plate Fund for the purpose of performing risk assessments such as air contaminants and surface water protection.

Food and Safety Account

$1.9 million is appropriated from the Pesticide Registration Fund to the Food and Safety Account for the purpose of funding programs related to assessing the impact of pesticide residue on specific groups of people.

Federal Funds

$2.2 million in Federal funds are provided to the DPR for the purpose of developing alternative pest management practices, monitoring pesticides with the greatest health concerns, developing new methods of testing for pesticide residue, providing grants to public and private entities for pest management research and assessing dietary risks from the use of specific pesticides. These funds are for very specific projects and are not available to DPR for other purposes.

Reimbursements

Reimbursements are estimated at $659,000 for 1999-00 and are from outside sources (eg. Cal EPA and the Department of Food and Agriculture). The funds are for specific projects and not subject to DPR prioritization.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

The Department of Toxic Substances Control estimated expenditure level for 1999-00 is $132.6 million. The General Fund provides $40.4 million (30 percent), the Hazardous Waste Account $31.4 million (24 percent), the Toxic Substance Control Account $31.3 million (24 percent), Federal Funds $22.2 million (17 percent) and $4.2 million is received in reimbursements. The department expenditure level in 1990-91 was $80.7 million and has had a growth of 64 percent. The most significant growth occurred in the General Fund that appeared to compensate for needs within the Site Mitigation Program.

General Fund

$40.4 million is provided from the General Fund to support the programs of the DTSC. $39.6 million is expended for site mitigation.

Hazardous Waste Control Account

Health and Safety Code section 25174 creates in the General Fund the Hazardous Waste Control Account (HWCA).

The funds deposited in the HWCA can be used by the department for the:

(a) Implementation and administration of the Hazardous Waste Control Act.

(b) Allocation to the Board of Equalization to pay refunds of fees.

(c) Costs of performing or reviewing analysis of past, present or potential environmental public health problems.

(d) Attorney General's support of the Toxic Substances Enforcement Program.

(e) Certified Unified Program Agencies.

Section 25174.1 of the Health and Safety Code requires each person in this state to pay a fee for the disposal of hazardous waste to land. Waste facility operators collect the fee and transmit the funds to the Board of Equalization who then deposit the funds in the HWCA for expenditure by the department as appropriated by the Legislature. The fee is based on tonnage and type of hazardous waste.

Revenue is estimated at $4.2 million for 1999-00.

Section 25205.16 of the H & S Code authorizes the department to impose an annual fee for verification of all generators, transporters and facility operators identification numbers that were issued either by the department or the Environmental Protection Agency.

Revenue from the fee for 1999-00 is an estimated $3.6 million and is used for the general support of the Hazardous Waste Management Program.

Section 25200 of the H & S Code requires the department to issue permits to facilities that operate one or more hazardous waste management units that meet building standards published in the State Building Standards Code. Section 25205.4 sets the base rate for the annual permit fee at $19,761 to be adjusted each year to reflect changes in the cost of living (CPI) during the fiscal year as issued by the Department of Industrial Relations. The facility fee/ standardized permit revenue is estimated at $3.5 million.

Section 25205.5 requires, in addition to other fees imposed for waste disposal, every generator of hazardous waste to pay a base fee of $2,748. Depending upon how much tonnage of waste is generated a generator is required to pay as little as 5 percent of the base fee per annum to as much as 20 times the base fee. The base fee is adjusted to reflect changes in the cost of living (CPI). The estimated revenue from these fees for 1999-00 is $15.1 million and is used for statewide support of the Hazardous Waste Management Program.

Section 25206.2 authorizes the department to recover costs for processing applications, responding to requests or providing other services to applicants who are required by various other sections of the H & S Code to reimburse for direct, indirect and pro rata costs. Estimated revenue for 1999-00 is $1.0 million.

Section 25205.15 requires the department to impose a fee of $7.50 for each California Uniform Hazardous Waste manifest form used after June 30,1998 by generators of hazardous waste. This section specifies that if revenue does not equal $1.7 million for 1999-00, beginning July1, 2000 for those forms used after June 30, 2000, the department should collect the fee at the time of original sale. The estimated revenue for 1999-00 is $2.0 million.

Miscellaneous administrative charges, activity fees, and other revenue will provide $1.1 million.

Total expenditures from the HWCA for 1999-00 are estimated to be $31.4 million with total revenue of $30.5 million.

Toxic Substance Control Account

Section 25173.6 of the H & S Code establishes in the General Fund the Toxic Substances Control Account for the deposit of:

(a) Fees from corporations identified by the department pursuant to H & S Code section 25205.6 that use, operate, store or conduct activities related to hazardous waste. The environmental fee paid by corporations is based on the number of employees the corporation has ranging from $200 for those between 50 and 75 employees to $9,500 for those corporations with more than 1000 employees. These fees are adjusted for changes in the CPI as issued by the Department of industrial relations.

(b) Fees for remedial or removal action.

(c) Fines and penalties not otherwise directed. Section 25189 imposes fines and penalties for various categories of violators of the Hazardous Waste Treatment Reform Act of 1995. The fines range from $1,000 to $25,000 per violation on individuals who intentionally or negligently make false statements on permit applications or who dispose or cause disposal of waste at points not statutorily authorized. DTSC can also levy up to $25,000 per day for continuing violations.

Section 25192 specifies the allocation of civil and criminal penalties not deposited in the Toxic Substances Control Account in the following manner:

(1) 50 percent is deposited in the Hazardous Substances Control account.

(2) 25 percent to the office that brought the action (i.e., Attorney General, city prosecutor or attorney or the district attorney).

(3) 25 percent paid to DTSC to fund the CUPA, local health officer, or local agency authorized to enforce and/or investigate. However, 40 percent of this funding must be paid to local police, sheriff or California Highway Patrol if they conducted the investigation.

For FY 1999-00, DTSC estimates fines and penalties collections of $689,000 for deposit into the Toxic Substances Control Account. These fines and penalties will be used to partially fund contractor costs for direct site cleanup and orphan shares under the Expedited Remedial Action Program. Total projected expenditures for direct site cleanup are $6.986 million ($2.186 million from TSCA and $4.8 million from General Fund) and $450,000 for the Expedited Remedial Action Program.

(d) Interest earned on money in the account.

(e) Money recovered pursuant to section 25360 except bond funds. Section 25360 authorizes the department via the Attorney General to recover any cost incurred for removal and remedial action at hazardous substance release sites from responsible parties. Money recovered is deposited in this account except for the cost paid from the Hazardous Substance Clean up Fund.

For 1999-00 estimated revenue from this source is $5.9 million including on-going oversight costs paid by responsible parties for remedial action or removal at specified sites.

Total expenditures from TSCA for 1999-00 are estimated at $31.3 million. Total revenue is estimated at $31.8 million.

Hazard Substances Clearing Account

For the payment of principal and interest on bonds the Legislature established within the General Fund the Hazardous Substances Control Account and within that account the Hazardous Substances Clearing Account pursuant to section 25334 of the H&S code. The estimated revenue and expenditure from this account for 1999-00 is $5.8 million.

Federal Trust Fund

The department receives funding from the U.S. EPA, Department of Defense and the Department of Energy in the amount of $22.2 million for 1999-00. These funds are for oversight of open/closing military bases, implementation of the federal RCRA (Resource Conservation and Recovery Act) program, site mitigation action and the Science Pollution Prevention and Technology Program (SPPT).

STATE WATER RESOURCES CONTROL BOARD

The SWRCB is supported by a variety of funding sources consisting of the General Fund, fee revenue bond funds, federal funds and reimbursements. The 1999-00 budget proposes an expenditure from all funding sources totaling $506.6 million.

The following discussion will describe the many funding sources of the SWRCB and their purposes. There are seven funds supported by fees as outlined below as well as the General Fund support:

General Fund

$56.8 million is used to fund in conjunction with other special funds (below) the SWRCB's core regulatory, spills, leaks, investigations, clean up, non point source, water quality management, loans and grants programs, and administrative support activities.

Waste Discharge Permit Fund

Section 13260 (2)(A) of the Water Code creates the Waste Discharge Permit Fund. The Fund is made up of fees paid to the SWRCB by:

(a) Point source dischargers of pollutants to surface water and land as part of the National Pollutant Discharge Elimination System (NPDES) program and Waste Discharge Requirements. The fee ranges from $200 to $10,000 depending on the threat to water quality, which includes total flow, volume, number of animals or area involved, bringing in $7.8 million for fiscal year 1999-00.

(b) Storm water dischargers pay an annual fee ranging from $250 to $500 for the implementation of the NPDES storm water runoff program.

(c) Persons required to certify that specific activities will not degrade water quality pay a Water Quality Certification fee based on the number of acres discharged. For fiscal year 1999-00 this fee will generate $1 million.

(d) Dairy owners pay a one time filing fee not to exceed $2,000 to fund the regulation of animal waste discharges from dairies and are also exempted from any annual fee. Revenue generated for fiscal year 1999-00 will be $360,000.

The Waste Discharge Permit Fund is subject to annual appropriation by the Legislature and other restrictions as outlined in this code section. For example, not less than 50% of fees separately accounted for from those entities subject to the general industry and construction storm water permit shall be available

upon appropriation by the Legislature to each regional board who are then required to spend not less than 50% of that money solely on storm water inspections and regulatory compliance issues. Facilities such as animal feeding or holding operations including dairy farms are subject to a filing fee not to exceed $2,000 and are exempt from any annual fee. The projected revenue to be deposited into the WDPF for fiscal year 1999-2000 is $14.4 million.

Environmental Protection Trust Fund

This fund was established pursuant to Health and safety Code Section 25270.11 for the deposit of fees and penalties paid by owners/operators of above ground petroleum tanks related to spills or releases.
The money appropriated by the Legislature from this fund is to be used to inspect tank facilities, train inspectors of tank facilities, provide oversight or cause clean up or abatement of releases, award research grants, reimburse local and state agencies for responding to accidents or disasters involving above ground storage tanks, and provide for long term rehabilitation and maintenance of affected wetlands and other natural resources. Only those spills which occurred on or after January 1,1990 can be funded from this source. For 1999-00 the budget proposes to expend $1.5 million for these activities.

There is a biennial fee based on tank storage capacity ranging from $100 for less than 10,000 gallons to $30,000 for more than 1 million gallons. In addition, a site-specific fee is assessed for cost of clean up.

Total revenue from these sources is projected to be $1.5 million for the 1999-2000 fiscal year.

Integrated Waste Management Account

Section 48005 of the Public Resources Code provides that money received by the Integrated Waste Management Board for this account shall be used for the regulation of solid waste facilities by the State Water Resources Control Board. Tipping fees collected from owners and operators of solid waste landfill facilities based on $1.34 per ton is the source of funding for this account. Tipping fees are paid in lieu of fees deposited into the WDPF. The 1999-2000 projected expenditures are $5.6 million. This is not a fee administered by the SWRCB but is subject to annual appropriation by the Legislature.

Underground Storage Tank Fund

Section 25687 of the Health and Safety Code authorizes cities and counties to charge a fee to any person who submits an application for a permit to operate an underground storage tank or to renew or amend a permit. In addition a surcharge as determined by the Legislature is levied to cover the cost of SWRCB responsibilities under this section. This fund, created in the General Fund, is the disposition of the surcharge subject to an appropriation by the Legislature.

The fee amount varies by city and county depending upon their cost for administering the inspection and permitting responsibility. Certain counties and cities within those counties are exempt from the surcharge if they are below a certain population level, currently 1,070,000.

The revenue from the surcharge that is collected by the counties and cities and transmitted to the SWRCB for 1999-00 fiscal year is projected to be $90,000 while program cost is projected at $1.4 million. This program, according to the SWRCB is transitioning to the Certified Unified Program Agencies program and the fees will terminate.

Underground Tank Tester Account

Section 25284.4 of the Health and Safety Code require that any person that engages in testing the integrity of underground storage tanks must obtain a tank testing license from the SWRCB. The fund is created in the General Fund for receipt of tank testing fees and civil liabilities collected and subject to an appropriation by the Legislature.

A fee schedule is established by the SWRCB to cover the cost of administering the exam and enforcement activity and are paid on a triennial basis. The fee revenue for fiscal year 1999-00 is estimated to be $51,000.

Underground Storage Tank (UST) Clean Up Fund

Section 25299.50 of the Health and Safety Code created in the State Treasury the Underground Storage Tank Clean Up Fund that is subject to an annual appropriation by the Legislature. Money for the fund is generated by a per gallon fee paid by owners who are required to have a permit to own or operate a UST and is collected by the Board of Equalization for the SWRCB.

The fund was created to pay for corrective action and third party liability cost resulting from unauthorized release of petroleum, which causes contamination of soil and/or groundwater.

For fiscal year 1999-00 the SWRCB projects revenue from the .012 mil fees paid to be $220.4 million, part of which covers the State operations cost of the SWRCB and the regional boards.

Leaking Underground Storage Tank Cost Recovery Fund

Section 25297.3 of the Health and Safety Code creates within the General Fund this fund that is subject to an appropriation by the Legislature. The fund contains all monies recovered pursuant to federal law and interest earned on money deposited in the fund.

The money may be expended for enforcement, corrective action and oversight, cost recovery, relocation of residents and provision of water supplies and exposure assessment activities as defined in the federal act. Projected expenditures for 1999-00 are $2,279,000.

Bond Funds

The other funds available to the SWRCB are proceeds from voter approved bonds for specific water quality projects such as clean water, conservation and reclamation. The proceeds are primarily subvened to local entities either as a grant or loan for the afore mentioned projects. For fiscal year 1999-00 the proposed expenditure of bond funds is an estimated $65.4 million which includes state operations and local assistance costs.

Federal funds

Sections 16360-16365 of the Government Code created the Federal Trust Fund in the State Treasury. All money received by the State from the federal government and the expenditures that are administered by any State agency must be deposited in the Trust Fund.

The SWRCB receives Federal Funds to fund in combination with other funds certain program activities. Those activities include permitting for the National Pollutant Discharge Elimination system as part of the Core Regulatory Program, implementation of a non point source pollution control program as part of the Non Point Source Program, various activities in the Water Quality Management Program, the Underground Storage Tank Program and the SRF Loans and Grant Program.

The total available federal funds for fiscal year 1999-00 is estimated at $124 million all of which is directed to some specific purpose related to the program as indicated above.

Funds From Other Sources

The following funds are available to the SWRCB for specific purposes and are from funds that are administered by other State agencies all of which are appropriated by the Legislature to the SWRCB:

(a) The Harbor and Watercraft Revolving Fund provides $250,000 for Fiscal Year 1999-00 for MTBE investigation of marine fueling facilities.

(b) The Public Resources Account, Cigarette & Tobacco Products Surtax Fund provides $1.6 million to the SWRCB support budget to coordinate for watershed management initiative, the Santa Monica Bay Estuary Project to match federal grants, and review of Mono Lake Water Rights

(c) The SWRCB has reimbursement authorizations totaling $8.2 million in fiscal year 1999-00 from contracts with other state agencies, local and private entities that have requested specific services. The services involve providing certification, plan review, water quality, toxic pollutant control, clean up and oversight.

State Water Quality Control Fund and the State Water Pollution Control Clean Up and Abatement Account within the fund receives moneys from criminal and civil penalties collected by the SWRCB. These funds are available for site specific clean up activities by the state and regional boards. For fiscal year 1999-00 $3.4 million is budgeted from this funding source.

Appendix C

Organizational Structure of Environmental Regulatory Agencies in Other Major States

Introduction

In order to study the differences in states' approach to environmental regulation and policy, **Public Works** conducted interviews with agency officials and, where possible, interested parties, in the ten largest states (other than California)[1], to research, investigate and compare their environmental regulatory structures. In addition, **Public Works** undertook a survey of the literature, in order to determine:

- Trends and new approaches to state environmental regulation.
- The organizational structure of state environmental authorities and its effects on state environmental policy.
- The existence and pros and cons of a single executive as compared to a commission or board structure.
- The prevalence, pros and cons, and advisability of plural or singular sub-agency division and authority chiefs.
- The degree of independence of sub-agency divisions and authorities.
- The relationship of various agency structures to efficiency, openness, democracy, transparency, stability, expertise, accountability, and gubernatorial control.

The consulting team also interviewed Robbie Roberts of the Environmental Council of the States (ECOS), an organization which tracks environmental activities in state governments. According to Mr. Roberts, there is no direct relationship between the organization structure of a state environmental agency and its relative effectiveness. Of more import is the fact that different states have different needs, as a function of the state's size, geographic diversity, and environmental factors, such as its relative level of industry, degree of urban-versus-rural population, and agricultural productivity.

ECOS believes, however, that an effective state environmental organization should ideally have a consolidated function and organization, which includes an executive, be it a single person or a board, that will report directly to the Governor. This preference stems more from a belief in representative democracy and executive mandate than from an organizational efficiency standpoint, however.

In comparing a unitary executive and a plural board, ECOS staff believes there are pros and cons to each: A single executive is more efficient from an administrative and leadership perspective. In contrast, a board serves the function of representing more points of view, looking at policy from different perspectives across geographic lines, and with diverse political philosophies and areas of expertise.

[1] New York, Texas, Florida, Pennsylvania, Illinois, Ohio, Michigan, New Jersey, North Carolina, Georgia.

The best policy making framework, then, may be one in which there is a single chief executive responsible for day-to-day administration and management, with the existence of one or more boards to provide expertise, policy insight and recommendations, as well as to assist in environmental management and oversight. Such a system, however, is dependent upon strong working relationships and cooperation among the board, the executive, as well as with the Governor and with the legislature.

A related issue, particularly for states with larger environmental bureaucracies, is the degree of centralization of authority in the environmental agency. Specifically, how much and what kind of authority should be delegated to field offices in an environmental agency?

Pennsylvania and Texas, in particular, have grappled with this issue in recent years. Both states have attempted to delegate significant authority to the field offices. The difficulty that arises in a decentralized environmental agency is the uniformity across the state (or lack thereof) of decentralized field office decision-making. Pennsylvania has attempted to resolve this by designating the central office as responsible for setting rules (with oversight from an Environmental Quality Board), while the field offices are given broad authority for individual permit approval and enforcement decisions. In theory, the central office sets policy and the field offices make decisions based on this central policy. In issues of "first impression" in which an interpretation of the central policy is necessary, field staff consult with the central policy staff to reach a determination. This works well in most instances, but tensions nevertheless arise in some instances, such as when a major project or issue raises considerable political or press interest and the central office becomes involved. Such situations are no doubt inevitable in this arena, and the best that can be accomplished is to reduce these incidents to a minimum.

This type of structure lends itself to a more holistic and multi-media environmental management approach. A separation of policy-making (located in the central office) from day-to-day execution of policy (in the field offices) allows individual decision-making to occur through coordination of various experts in various fields at the local level, with an upper-level cross-media management team crafting the overall policy.

In addition, a major trend in governmental operation, recognized since at least David Osborne and Ted Gaebler's *Reinventing Government*, is anticipatory, as opposed to reactive, government. In no place is this as true as it is in the field of environmental protection, where state and federal agencies are evolving toward pollution prevention and waste reduction. This entails reducing the production of pollution at its source, through recycling, use of materials that pollute less, and reliance on cleaner energy sources. The notion of pollution prevention represents a revolutionary approach to the way environmental management is conducted in the United States. In order for pollution prevention to be effective, environmental programs must be approached in a multi-media approach that looks at a more "big-picture" management structure.

This survey now considers these two major themes in environmental agency structure: the tradeoffs between unitary and plural executives, and those between functional and media-based organizations.

Boards, Councils & Commissions in Agency Structure

The following general conclusions can be drawn from the interviews:

- Of the ten surveyed, five states utilize commissions or boards to provide oversight. States with a board or commission structure are Texas, Pennsylvania, Illinois, North Carolina, and Michigan.

- The amount of authority granted to each board ranges from policy-making to enforcement to the merely advisory. Of the boards surveyed, only the three person Texas Commission, and to a lesser degree the Pennsylvania EQB, the North Carolina EMC and the Illinois Pollution Control Board have actual policy-making authority. The Texas, Illinois and North Carolina boards also have authority to hear disputes or appeals. The Michigan Environmental Science Board is the weakest of the five, and is merely advisory.

- Only in Texas is chief executive authority vested in a plural body.

- The governor typically selects the agency executive or board members, although in the case of boards, the appointments are sometimes split between the legislative and executive branches of government.

- Councils based in science and utilizing environmental experts from various areas or disciplines, like North Carolina's, have been cited as useful to promote "good" policy. But such boards can also be criticized in practice if their membership is considered too close to industry, as has been the case in Michigan. In Illinois, such a system has been seen as creating regulatory gridlock by allowing environmentalists and the business community alike to hold up regulation they do not support. Representatives in systems where there is a balance of power among system stakeholders, managers, and commissions stated that such a system seems to be effective.

- State agencies that emphasized a customer-service approach to environmental management reported excellent results in doing so.

- Increasing the number of environmental experts in the field offices could help facilitate more community involvement in the environmental process.

- Environmental groups surveyed were more satisfied with agencies that had established forums with the purpose of emphasizing public involvement. According to both state agencies, and environmental groups, the major complaint among environmental groups in some states, including Michigan and Texas, was a lack of citizen representation.

- Several states have effective public participation forums. Pennsylvania promotes public involvement in the environmental process through the Citizens Advisory Council, which is very popular politically. That state also utilizes as many as 40 informal advisory groups on various issues, and in different regions throughout the state, to obtain public input.

Half of the states surveyed utilize some sort of board, council, or commission in their environmental regulatory systems. Because these states therefore bear more resemblance to the current California structure, they are discussed here in detail:

Texas

The Texas Natural Resource Conservation Commission is the lead environmental agency for the state, and is overseen by three full-time commissioners, appointed by the governor, who also appoints the Chairman of the Commission. A commissioner may not serve more than two six-year terms, and the terms are staggered so that a different member's term expires every two years. The commissioners' primary function is to establish overall agency direction and policy, and to make final determinations on contested permitting and enforcement matters. The Commissioners are responsible for adopting a set of guiding principles which embody their vision of how the agency is to conduct its business.

The TNRCC has come under fire for catering too much to industry and being anti-environmental. Texas remains one of the most polluted states in the US and the Bush Administration has been criticized for not doing enough to improve conditions. All three state commissioners of the TNRCC have ties to industry, with the chairman having formerly worked for a chemical company. As a result, the state commission has established what environmentalists consider to be a business friendly tone, and has been lax in its enforcement and regulation of industrial polluters. Furthermore, environmentalists have complained that the TNRCC has dramatically reduced public oversight, oftentimes refusing to hold public hearings concerning regulations.

Management of the day-to-day operations of the agency is overseen by an executive director, who is hired by the commissioners. Major responsibilities of the executive director include implementation of commission policies, making recommendations to the commissioners about contested permitting and enforcement matters, and approving uncontested permit applications and registrations.

Four managerial and political offices, and several office clusters, report to the executive director. These oversee the agency's regulatory and administrative programs:

1. Administrative Services
2. Air Quality
3. Compliance and Enforcement
4. Legal Services
5. Environmental Policy, Analysis, and Assessment
6. Waste Management
7. Water Resource Management

Pennsylvania

The Department of Environmental Protection (DEP) in Pennsylvania has authority for enforcing environmental laws. A separate agency, the Department of Conservation and Natural Resources, was created in 1995 to oversee state parks and forests and conservation activities. These responsibilities were contained within a single state environmental and natural resources agency, the Department of Environmental Resources, until that time.

DEP is headed by the Secretary of Environmental Protection, who is appointed by the governor and serves in the governor's cabinet. Departmental oversight authority is divided among environmental media – Air, Recycling and Radiation Protection; Water Management; and Mineral Resources Management -- with each managed by a deputy secretary. A separate deputy secretary for field operations has oversight over the agency's six regional field offices. The field offices are responsible for permitting and enforcement, and also contain public liaison staff who are responsible for working with the public on regional issues.

There is an occasional tension regarding the personnel in the field offices, which report to the deputy secretary for field operations, but also must work with the deputy secretary overseeing their environmental medium in the state capitol headquarters. In theory, the staff in the central office is responsible for setting policy, rules and regulations, while the field staff handles permitting, investigations and enforcement actions in compliance with those overarching policies. Generally, this division of authority appears to work, but in some instances, particularly with large projects or issues of first impression that require interpretation of central office policy, there can be disagreements between field staff and central office policy staff over how and by whom a decision is to be made.

The Pennsylvania Department of Environmental Protection (DEP) has its regulatory function overseen by what is known as the Environmental Quality Board (EQB). The EQB is a 20-member independent board that is responsible for the implementation of all of DEP's regulations, and is chaired by the Secretary of the DEP, who only votes on the board in case of a tie. The EQB includes eleven state agencies – DEP, Agriculture, Health, Community and Economic Development, the Public Utility Commission, the Fish and Boat Commission, the Game Commission, Labor and Industry, the Governor's Office of Policy, the Historical and Museum Commission, and Transportation – as well as five members of DEP's Citizens Advisory Council (CAC), and four members of the General Assembly. The General Assembly members are appointed by the President Pro Tempore of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader.

1. Developing a Master Environmental Plan for the Commonwealth. In practice, however, the EQB has not taken any independent action in recent years to develop or maintain a Master Environmental Plan.

2. Formulating, adopting and promulgating rules and regulations as necessary to accomplish the Department of Environmental Protection's work. This is the EQB's primary function in practice. The EQB does have veto power over regulations, but typically follows the recommendations of the DEP secretary and staff.

3. Reviewing reports and advising the Department of Environmental Protection on matters of policy.

The EQB also has the power to subpoena witnesses and records, but this authority is rarely if ever used.

Because of the dominance on the Environmental Quality Board by various state executive offices, the EQB in reality has not exercised great authority to affect major policy change, and whatever the Department proposes generally passes the EQB, with only minor changes. It is a sounding board for the regulations, and does recommend revisions, but does not often propose wholesale changes.

The DEP Citizens Advisory Council is an entity through which the state enables public participation in the environmental policy-making process. The CAC is a volunteer entity, with three full-time salaried staff members. The CAC has the authority to look at department issues, as well as the ability to raise issues independently, with a focus on policy-oriented issues. CAC input into the regulatory process happens primarily through their representation on the EQB.

The Citizens Advisory Council is an independent 18-member body that is evenly appointed 6 each appointed by the governor, Speaker of the House, and Senate Pro Tem. The terms are staggered so that a third of the appointments come up every two years. Five members of the CAC are elected annually to be representatives on the EQB. CAC representation is typically a mix of environmentalists, business leaders and academics. The EQB holds monthly meetings that take place nearly every month. These meetings are public; however, public statements are not permitted.

The primary function of the CAC is to lend a public forum and voice to the state environmental process, which it has been effective in doing. This can include policy issues, management issues, and pending legislation. Reports done by the CAC are released to public and provided to the DEP. In most cases, the DEP will respond to reports and discussions take place to determine what recommendations the department will follow and which they will not endorse.

Illinois

The State of Illinois has an independent entity with authority to direct environmental policy in the state. The Illinois Pollution Control Board (IPCB) oversees the policies, though not the operation, of the Illinois Environmental Protection Agency (EPA), functions separately from the EPA and is accorded the authority to adopt environmental standards and regulations for the state, and to adjudicate contested cases arising from the application of state environmental regulations.

The IPCB is responsible for the following:

- The establishment of coherent, uniform and workable environmental standards and regulations that restore, protect, and enhance the quality of Illinois environment.

- Impartial decision-making which resolves environmental disputes in a manner that brings to bear technical and legal expertise, public participation and judicial integrity.

- Government leadership and public policy guidance for the protection and preservation of Illinois' environment and natural resources so that they can be enjoyed by future generations of Illinoisans.

The board consists of seven members appointed by the governor. These individuals generally possess have some form of environmental policy background. The IPCB has a full staff of attorneys, hearing officers, and other staff members supporting the board. The IPCB was originally created as a "science court" of sorts, to ensure that environmental policies would represent "good science."

The *de facto* result of IPCB has been that regulations are often tied up in challenges from the business community as well as environmental groups, and regulations are often the result of legal compromise or negotiation. The IPCB has been criticized by environmental groups because it is believed that the legal aspects of the state policy-making procedure puts the aspect of strong environmental laws at a disadvantage because of the ability of large wealthy corporations to provide disproportionate funding for lawyers to challenge laws.[2]

Michigan

The Michigan Department of Environmental Quality (DEQ) is structured primarily according to basic environmental media. However the Michigan Environmental Science Board (MESB) independent from the DEQ, is responsible for providing sound scientific and technical advice to the Governor, and to State departments, as requested by the Governor, on matters affecting the protection and management of Michigan's environment and natural resources.

The MESB consists of nine members and an executive director appointed by the Governor. Although the agency is separate from the DEQ, support staffing for the agency comes through the DEQ's Office of Special Environmental Projects. Board members are typically academics, and serve on a volunteer basis. Members of the MESB are appointed based upon expertise in one or more of the following areas: engineering, ecological science, economics, chemistry, physics, biological sciences, human medicine, statistics, risk assessment, and geology, among other disciplines as necessary.

The MESB does not meet and has no regulatory or legislative mandate. Rather, the MESB serves at the request of the governor, primarily to conduct independent studies of various environmental concerns and/or regulations. The board does not have regular meetings, but rather serves to put together a "team" of experts to study a particular issue. The duties of the various MESB panels include:

[2] Similar criticism has been raised about Pennsylvania's Independent Regulatory Review Board (IRRC), an independent board – with one member each appointed by the Governor and the four legislative caucuses – with authority to review *all* (not just environmental) regulations proposed in the state. Intended originally to reduce unneeded regulations *and* to ensure that executive branch regulations remained true to the legislature's statutory intentions, IRRC has become something of a "super-legislature" in which regulations are re-negotiated and sometimes endlessly delayed, at great expense to interested parties. This combination of delays and expense – somewhat foreseeable with this kind of extra bureaucratic layering – is seen to benefit *special* interests to the detriment of the *public* interest.

1. To advise the Governor, the Commission of Natural Resource, the Michigan Department of Natural Resources and other state agencies on issues affecting the protection and management of Michigan's environment and natural resources, as may be requested by the Governor.

2. To assist the Governor in reviewing state or federal environmental impact statements and to coordinate the reviews of other state agencies.

3. To review the establishment of new environmental standards for permits or operating licenses, as may be requested by the Governor.

4. To review the methodology for establishing permit or operating license conditions that contain environmental standards that have not been established by administrative rule, as may be requested by the Governor.

5. To review staff recommendations for the approval or denial of permit and license applications as may be requested by the Governor.

The scope of the review of the MESB must be based upon the following factors:

- sound, objective, scientific reasoning.

- relative risk to human health and to the environment.

- economic reasonableness, where appropriate.

Environmental groups in the state of Michigan view both the Michigan DEQ and the MESB as hostile to the environment under the current state administration, which is extremely business friendly and views industrial plants as its "clients." The Sierra Club asserted that the state administration is uninterested in public participation or stewardship in the environmental regulatory process.

Nevertheless, environmental groups stated that the MESB is a good idea in theory. But in its current structure it is "compromised" because it functions at the service of the Governor, and is only able to take up issues that the administration requests, and therefore its findings often reflect the wishes of the incumbent government.

Some believe that if the board were more open to public participation, it could serve a better function. It is worth contrasting the Illinois and Michigan science agencies with their Dutch counterpart. In the Netherlands, an independent government science institute provides the technical analyses and determinations upon which public policy is based. In contrast to the state entities, in the Netherlands: (1) the science *precedes* the policy, rather than "reviewing" it, (2) the science is overseen by career experts, not political appointees, and (3) government institutions are widely accepted as competent and acting in the public interest.

The DEQ used to have oversight boards for water resources, and air resources, but these were eliminated by the current administration in a move viewed by the environmental community as hostile to the environment.

North Carolina

The North Carolina Department of Environment and Natural Resources (DENR) is the environmental agency for the state of North Carolina. Like most agencies, the DENR is broken down by environmental media, with the following divisions:

- Division of Water Quality
- Division of Air Quality
- Division of Waste Management
- Division of Pollution Prevention and Environmental Assistance
- Coastal Management Division
- Division of Land Resources
- Division of Water Resources
- Division of Environmental Health

In addition, DENR includes an Environmental Management Commission (EMC), a 17-member body appointed by the Governor, the Senate Pro Tempore, and the Speaker of the House. The Commission is responsible for adopting rules for the protection, preservation and enhancement of the State's air and water resources. Commission members are chosen to represent various constituencies, including the medical profession, agriculture, engineering, fish and wildlife, groundwater, air and water pollution control, municipal or county government, and the public at large. The Commission oversees and adopts rules for several divisions of the Department of Environment and Natural Resources, including the divisions of Air Quality, Land Resources, Water Quality, and Water Resources.

The EMC has existed in various forms since the 1950's, and its primary responsibility is to establish administrative rules and regulations according to state legislation. The commission is one of many state commissions in North Carolina, which stems from a historical distrust of executive government throughout the history of the state. According to the Chairman of the EMC, the commission has a considerable level of authority and power to affect environmental policy in the state. The EMC has the primary responsibility to set standards, and oversees appeals of fines, among other powers. In terms of influencing legislative change, however, the Secretary of DENR has more authority. However, there is currently an excellent relationship between the Secretary of the DENR and the EMC, with a mutual advisory relationship amongst the two entities. This cooperative relationship between the EMC and the Secretary was cited as the key element in making the system work so effectively. This relationship is both personal and institutional, and is facilitated through regular meetings and interaction between the Secretary and the Chairman of the EMC.

Traditional Organization & the Movement Toward Multi-Media Approaches

Most states follow a traditional government agency approach to environmental regulation, with a unitary executive, such as a Commissioner or Secretary, operating as the head of environmental programs, and regulatory division along lines of polluting media (air, water, solid waste). A few states have begun to reorganize on more functional lines, and to consolidate regulatory structures.

- A slight majority of the major states still consolidate environmental programs from natural resource programs under a single department. These states are Florida, Georgia, New York, New Jersey, North Carolina, and Michigan.

- Texas, Pennsylvania, Ohio and Illinois have split these functions.

- Streamlining and simplification of permitting process is being pushed in many states, including Texas, New Jersey, and New York. New York and Texas have determined that the key to streamlining the permitting process is achieved through the establishment of permitting databases, through which experts in various environmental fields can coordinate their efforts.

- Several states, including Texas, New York, and New Jersey, are pushing towards the use of information technology and database management to increase department efficiency. This ties in with the use of information to increase department efficiencies, as well as taking more of a multi-media approach to permitting and regulation.

New York

The State of New York has a single environmental agency in control of all environmental and natural resource programs. The New York State Department of Environmental Conservation (DEC) has three primary functions: natural resource management; environmental quality protection; and the promotion of public health, safety, and recreation. The DEC is headed by the Executive Deputy Director, who is appointed by the Governor and serves at his pleasure. The division of the department is as follows:

Natural Resource Programs

- Fish and Wildlife
- Marine Resources
- Lands and Forests
- Mineral Resources

Environmental Quality Programs

- Air Resources
- Environmental Remediation
- Pollution Prevention
- Solid and Hazardous Materials
- Water

Special Services

- Recreation
- Operations
- Public Affairs and Education
- Environmental Permits
- Hearings and Mediation Services
- Public Protection
- Law Enforcement
- Forest Rangers
- General Counsel
- Legal Affairs
- Environmental Enforcement

In addition to these divisions, the DEC has nine regional offices.

Of particular interest within the New York DEC is the Environmental Permits division. Within this division, the state has created a one-stop shopping entity for permits, which works with other media-oriented divisions to create uniform procedures and coordination for permitting and inspection. In addition, all permits are issued concurrently. This "one-stop shopping" for permitting process, which has been around since 1982, serves to make the agency more business friendly. In select cases, the Environmental Permits division has attempted to take a multi-media pollution approach to facilities identified as appropriate for this type of approach. In these select cases, the permitting office has scheduled concurrent visitation of a team of environmental inspectors with differing media orientations in order to better serve business.

Ohio

The Ohio Environmental Protection Agency offers a standard program structure, primarily based upon media division. The Director is appointed by the Governor. The primary divisions within the Ohio EPA are as follows:

- Air Pollution Control
- Drinking and Ground Water
- Emergency and Remedial Response
- Environmental and Financial Assistance
- Environmental Services
- Hazardous Waster Management
- Solid and Infectious Waste Management

- Surface Water
- Environmental Education
- Federal Facilities Oversight
- Pollution Prevention

Under the current Director, the Ohio EPA has adopted a "one-agency" approach to operational function. This means the agency is making efforts towards cooperation amongst the various divisions, and a multi-media approach to environmental management.

Georgia

The Georgia Department of Natural Resources is responsible for all aspects of environmental programs within the state of Georgia. The Director is appointed by the governor, and is responsible for the oversight of the following Divisions:

- The Coastal Resources Division is responsible for management of Georgia's marshes, beaches, and marine fishery resources.
- The Historic Preservation Division works to identify, protect, and preserve Georgia's historic and archaeological resources.
- The Parks Recreation and Historic Sites Division operates 47 state parks and 14 historic sites on 70,000 acres of state lands for recreational and education purposes.
- The Pollution Prevention Assistance Division develops programs and activities to facilitate reduction of pollution at the source, and instills a pollution prevention ethic in Georgia's businesses and citizens.
- The Program Support Division is responsible for administrative aspects of division, coordinating strategic planning, program evaluations, business process improvement, total quality management and other consultative service requested by divisions.

In addition, the Environmental Protection Division, serving the function of a typical environmental protection agency, is responsible for the protection of air, land, and water, through the authority of state statutes and major parts of five federal environmental statutes. These laws regulate public and private facilities having to do with water quality, air quality, hazardous waste, water supply, solid waste management, surface mining, and other areas. The Division has "one-stop" permit review and issuance for increased efficiency of the permitting process.

New Jersey

The New Jersey Department of Environmental Protection (DEP) has a standard structure, with programs primarily broken down by media type. The Commissioner is appointed by the Governor, with the consent of the Senate, and then appoints department heads, with the consent of the Governor.

The DEP switched in the 1980's to more of a functional approach towards environmental regulation, and has taken steps towards permit coordination and a multi-media approach to dealing with pollution point sources. The DEP has several initiatives through which it has aimed to strengthen its operations:

- Strengthened compliance and enforcement efforts, with an emphasis on site remediation.
- Development of an agency-wide strategic plan, with an attempt to pool resources and consolidate the efforts of the various entities.
- Development of an Environmental Management Information Technology System, which helps to coordinate the permitting process and establish "one-stop shopping" for permits, and also increases the pollution prevention efforts in the state.
- There has also been a push towards increased stakeholder involvement through comment and review in the regulation process.

Interviewees within the DEP believed that the presence of the same Commissioner since 1994 – an unusually long tenure – has helped to increase efficiency and effectiveness in the department, primarily through his emphasis on results-based management.

Florida

The Florida Department of Environmental Protection is the all-encompassing environmental agency for the state. Overall responsibility for the agency lies with the Secretary, who is appointed by the Governor. Three deputy secretaries oversee the three primary department functions: regulatory programs, land and recreation, and planning and management.

- Regulatory Programs oversees the primary environmental pollution and regulatory functions within the department, including water resources management, air resources, waste management, beaches and coastal systems, district management (six district offices), siting coordination, and cabinet affairs.
- Land and Recreation oversees public land and recreation issues within the state, and includes the offices of state lands, recreation and parks, greenways and trails, and coastal and aquatic managed areas.
- Planning and Management is the oversight and administrative wing of the Department, including the offices of resource assessment and management, administrative services, and strategic projects.

Michigan

A cumulative impact and multi-media approach to environmental management has been discussed, but has so far been rejected by the DEQ. This has been viewed as a move to deter the environmental movement.

Texas

The Texas Natural Resource Conservation Commission has recently reorganized from a media-based structure to more of a functional structure. The commission still has separate divisions for air quality, water, and waste management, but has attempted to improve efficiency by having an Office of Compliance and Enforcement, Office of Legal Services, and Office of Environmental Policy, Analysis, and Assessment. The TNRCC has, however, rejected multi-media permitting.

This came about as part of a Business Process Review (BPR), which had three primary goals:

- Streamlining and improving the permitting process, including allowing more accommodation for multimedia permitting and improving public participation. According to this process, a permit applicant is assigned to one of the five paths based upon their severity of their potential impact on the environment.

- Improving compliance planning, including priorities being set with agency-wide consideration and participation, and better utilization of data. This process also included improving communication with the regional offices and the headquarters office.

- Improving the planning, monitoring, and assessment process – seen as the most important recommendation of the BPR. It was discovered that the agency employees were not carrying out agency-wide coordination of environmental planning. The agency had no cohesive methodology for strategic environmental planning nor structured means to develop multimedia or cross-media planning. The BPR concluded that the agency had a general lack of understanding of what could be accomplished with the agency's database organization and the amount of information at their disposal.

In response to this, the agency expanded the role of the deputy for the Office of Policy and Regulatory Development (OPRD) to include environmental planning. The OPRD is now responsible for carrying out the agency's strategic environmental planning, identifying statewide or cross-media environmental concerns, and continuing to direct the agency's policy development and rulemaking.

To improve the planning and monitoring function, the agency established the Strategic Environmental Assessment (SEA) group within the OPRD. The SEA consists of 14 staff members selected from across the agency for their expertise and ability. Through this group, the agency has the goal of institutionalizing environmental planning. This group's mission calls for "striving to improve overall environmental outcomes by providing comprehensive information, analysis, and recommendations to promote a well-founded decision-making process." A planning liaison within each of the agency's major offices works with the SEA.

The outside consultant retained to study the agency's "business processes" recommended that the Commission move in the long-term to a multi-media permitting process. In June 1998, agency staff presented the commissioners with an initial response to the consultant's recommendations. To study the TNRCC's environmental permitting processes, the consultant had examined five specific permitting programs. On receiving the final report, a team of 32 TNRCC staff members considered how these recommendations would affect each of the more than 300 permits and licenses the agency oversees in some

27 permitting programs. Known as the Permit Process Implementation Team (PIT), this team included representatives of all agency divisions involved in writing or enforcing permits, supporting compliance, or assisting public participation in permitting. The PIT worked with the agency's commissioners, deputy directors, and permitting division directors to determine whether the agency could implement the consultant's recommendations and, if so, how.

The PIT's seven-month study produced a new, standardized permitting process to be used agency-wide. The PIT also addressed the issue of accommodating multimedia permitting. The PIT found that the overall demand for multimedia permitting is not high enough to warrant the organizational changes proposed by the consultant, and that, furthermore, if an applicant requested multimedia permitting, the agency could satisfy that request. Within existing structures. In responding to the multi-media recommendation, the PIT considered three fundamental questions:

- What is the demand for multimedia permitting?
- In what sectors could a need for multimedia permitting arise?
- What concerns are raised by the prospect of multimedia permitting?

What is the Demand?

Estimates of demand for multimedia permits ranged from less than 5 percent to 10 percent of a permitting program's workload: To date, few municipal solid waste (MSW) permits have required multimedia effort; these permits constitute less than 5 percent of the total MSW permit workload. Multimedia permits represent less than 10 percent of the total industrial and hazardous waste permit workload; however, that program estimated that multimedia reviews that do not result in a multimedia permit occur in over 50 percent of its workload. Other programs estimated their multimedia demand to be no more than 5 percent of their total permit workload.

Where Might the Need Arise?

There is a wide range of potential candidates for some form of multimedia permitting. The following TNRCC permitting programs already address multimedia concerns to some extent:

- *Agriculture.* At concentrated animal feeding operations (CAFOs), air and water quality concerns are addressed at the same time. In this case, the operations are very similar and not extremely toxic.

- *Municipal solid waste.* Depending on the specific case, an MSW permit may involve air or water quality concerns as well.

- *Combustion strategy.* The TNRCC permitting team for combustion facilities includes representatives from programs in each of the three media. To date, however, most combustion facilities do not appear to want "one-stop" or "consolidated" permits because of regulatory differences regarding the renewal and modification of Resource Conservation and Recovery Act (RCRA) and Texas Clean Air Act (TCAA) permits.

The PIT also identified these instances in which multimedia concerns could arise, at least in theory:

- Air-water general permits for concrete batch plants and other small industrial facilities.

- MSW incinerator permit applications.
- Conversion of an injection well to a wastewater treatment plant.
- Discharge permits for wastewater generated by air pollution control devices. And,
- Weather modification permits.

What Concerns Arise with Multimedia Permits?

The principal concern among the permitting directors was that combining federal permits with state permits undermines state sovereignty by implicating federal agencies in overseeing permits for which they have no regulatory authority. A second concern was that significant differences exist between federally delegated programs – in other words, if true multimedia permitting is to occur, changes need to be made at the federal level first. In some cases, promulgating state rules to allow multimedia permitting would result in state regulations that are more stringent than federal regulations.

A multimedia permit could also increase the complexity of permitting issues: If certain units at a facility are subject to more stringent requirements, it may be harder to change a multimedia permit to address improvements in other units that are subject to less stringent requirements.

Furthermore, most of the regulated community and their legal and technical consultants are organized by media. For this and other reasons, the regulated public did not want different units that are regulated by different federal programs consolidated into one permit.